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29 MAR 1961

MEMORANDUM FOR: General Counsel

SUBJECT : Territorial Post Differential for [REDACTED]

25X1A6A

REFERENCE : Memo dtd 13 Mar 61 to DCI fr DD/S, same subject

1. The Standardized Government Regulations provide that if an individual assigned to a post differential station is absent from his station in excess of 42 days the post differential payments cease, effective with the 43rd day of such absence. In the referenced memorandum the Deputy Director (Support) recommended and his recommendation was approved by the Deputy Director of Central Intelligence, that the "42-day rule" be waived for [REDACTED]

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2. The Standardized Government Regulations have been completely revised and the revision is effective 2 April 1961 (TL: SR 104). The revised edition contains a paragraph (.013) entitled, "Authority of Head of Agency" which is quoted below:

"When authorized by law, the head of an agency may defray official residence expenses for, and grant post differential, quarters, cost-of-living and representation allowances to employees of his agency and require an accounting therefor, subject to the provisions of these regulations and the availability of funds. Within the scope of these regulations, the head of an agency may issue such further implementing regulations as he may deem necessary for the guidance of his agency with regard to the granting of an accounting for these payments. Furthermore, when the Secretary of State determines that unusual circumstances exist, the head of an agency may grant special quarters, cost-of-living, and representation allowances in addition to or in lieu of those authorized in these regulations. Special regulations which have been approved by the Secretary of State under this section for application to Foreign Service employees who, because of emergency conditions, have been evacuated from posts, or whose families have been evacuated, may be adopted by heads of agencies for application to employees of such agencies who are in similar situations."

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3. Section 203 of the Overseas Differentials and Allowances Act, Public Law 86-707, provides that:

"The allowances and differentials authorized by this title shall be paid in accordance with regulations prescribed by the President establishing rules governing payments thereof and the respective rates at which such payments shall be made, the foreign areas, the groups of positions, and the categories of employees to which such rates shall apply, and other related matters."

Executive Order 10903 issued by the President on 9 January 1961 reads in part:

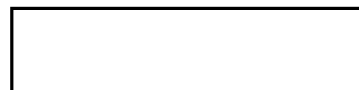
"Section 1. The Secretary of State is hereby designated and empowered to perform the following-described functions without the approval, ratification, or other action of the President:

...

(b) The authority vested in the President by Title II of the Overseas Differentials and Allowances Act to prescribe regulations, including the regulations referred to in sections 202, 203, and 221 (4) (B) of that Act (governing respectively, (1) certain waivers of recovery, (2) the payment of allowances and differentials authorized by Title II of the Act and certain other matters, and (3) travel expenses for dependents of certain employees)..."

4. As I understand the quoted language, there is no delegation of authority to the head of any agency relative to modifying the provision of the Standardized Government Regulations relating to the payment of post differentials. I, therefore, refer this matter to you for a decision as to whether the head of an agency or his deputy has the authority to waive the "42-day rule".

5. The referenced memorandum is attached.



E. R. SAUNDERS
Comptroller

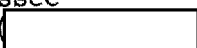
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Attachment

Finance Division:JCS:bjh

Rewritten: ERS/epr (29 March 1961)

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